

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SCOTT C. SMITH,

Plaintiff,

v.

CAROLINE HARDY, *et al.*,

Defendants.

Case No. C06-5455 RBL/KLS

ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL

This 42 U.S.C. § 1983 civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Before the Court is Plaintiff's motion to compel. (Dkt. # 34). After careful review of Plaintiff's motion, Defendants' response (Dkt. # 36), and Plaintiff's reply (Dkt. # 37), the Court finds that the motion to compel should be denied.

**I. DISCUSSION**

**A. Plaintiff's Request for Production**

Plaintiff is an inmate at Stafford Creek Corrections Center (SCCC). On or about June 6, 2006, Plaintiff attempted to mail a letter to James Kilgore, who is not a member of Plaintiff's immediate family. The mailroom rejected this letter, claiming that Plaintiff was attempting to

1 improperly solicit goods or money from a non-immediate family member without prior permission,  
2 contrary to Department of Corrections (DOC) Policy 450.100V(A)(6). (Dkt. 26, Exh. B-D).

3 Plaintiff requested that Defendants produce “all documents with any relation to SCCC  
4 surveillance of plaintiff’s mail - incoming or outgoing.” (Dkt. # 35, Exh. 1, Attach. A). Defendants  
5 produced a redacted 39-page mailroom “hot list.” The hot list contained Plaintiff’s name, but  
6 Defendants redacted all other information on the list pertaining to other inmates at SCCC, noting in  
7 their response that the redactions were made for confidential information or inmate safety.  
8 Defendants argue that the redacted information is not relevant because Plaintiff only requested the  
9 surveillance as to his incoming or outgoing mail. In addition, Defendants argue that inmates are  
10 prohibited by DOC from possessing this type of information about other inmates because there is a  
11 high likelihood that it can have serious consequences for facility security. (Dkt. # 36, Exh. 2 ¶ 2).

12 Plaintiff states that he does not want information relating to other inmates. He states that  
13 there is a redacted paragraph after his name and that he is entitled to that information and all  
14 information on the redacted mail room hot list pages that pertain to him. (Dkt. # 37 at 2).

15 Plaintiff also complains that Defendants have not cooperated in scheduling their depositions.  
16 Defendants protest that they have not yet had the opportunity to respond.

## 17 **B. Standard of Review**

18 A party may obtain discovery of relevant information. Fed. R. Civ. P. 26(b)(1). Relevant  
19 information is defined as information that is “reasonably calculated to lead to the discovery of  
20 admissible evidence.” Fed. R. Civ. P. 26(b)(1). However, the Court may deny discovery of relevant  
21 information if the “burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R.  
22 Civ. P. 26(b)(2)(iii). In determining the likely benefit the Court may consider “the needs of the case,  
23 the amount in controversy, the parties’ resources, the importance of the issues at stake in the  
24 litigation, and the importance of the proposed discovery in resolving the issues.” *Id.*

**C. Plaintiff's Request for Production of Unredacted Hot List Is Not Relevant Nor Likely To Lead to The Discovery Of Admissible Evidence If Not Directly Related to His Incoming/Outgoing Mail**

Plaintiff's civil rights action is based on his claim that the mailroom staff at SCCC improperly rejected his outgoing mail. A mailroom hot list is a document used by mailroom staff to surveil incoming and outgoing mail of inmates. (Dkt. # 35, Exh. 2). Surveillance of mail is done to prevent offenders from receiving or sending contraband, or any other material that threatens or undermines the security and order of the facility, through the mail, and to prevent criminal activity. (*Id.*). For example, some inmates have no-contact orders against them. This list allows mailroom staff to identify any person(s) that specific inmates are not allowed to contact. (*Id.*).

Plaintiff's request for information on the mailroom hot list relating to *his* incoming and outgoing mail may be relevant to his claims in this matter. The Court fails to see how information regarding any other inmate could possibly be relevant or likely lead to the discovery of admissible evidence relating to Plaintiff's claims of constitutional violations arising from rejection by mailroom staff of Plaintiff's letter. Plaintiff claims that he does not want information related to any other inmate, but seeks only information that is related to him and states that there is redacted information under his name that appears to be related to him. ((Dkt. # 37 at 2).

Although neither party produced the redacted "hot list" for the Court's examination, Defendants state that only information regarding other inmates has been redacted and that information relating to Plaintiff has been produced. (Dkt. # 36, Exh. 1 and Attach. A). Accordingly, Plaintiff's motion to compel is denied.

**D. Plaintiff's Motion to Compel Depositions**

Plaintiff complains that Defendants have not cooperated in scheduling their depositions. Defendants excuse their delay because of the pending summary judgment motions (Dkt. # 31 and 33) and because discovery cut-off is not until June 1, 2007. Those motions are the subject of a separate

1 Report and Recommendation, which shall issue from this Court under separate Order shortly.

2 In the meantime, the parties should cooperate in deposition discovery as with all discovery.  
3 If the parties cannot come to an agreement, Plaintiff may schedule depositions pursuant to Fed. R.  
4 Civ. P. 30(b)(1) and send notice of the deposition and subpoena to Defendants' counsel. If  
5 Defendants do not appear for their depositions, Plaintiff may then file a motion to compel pursuant to  
6 Fed. R. Civ. P. 37 with this Court.

7 Accordingly, Plaintiff's motion to compel (Dkt. # 34) is **DENIED**.

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9 DATED this 17th day of April, 2007.

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13 Karen L. Strombom  
14 United States Magistrate Judge  
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